

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
ADMINISTRATIVE PROCEDURES DIVISION**

**CHAPTER 1240-5-8
THE FINAL ORDER**

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1240-5-8-.01 TIME LIMITATION.

- (1) The maximum time limit for processing appeals is ninety (90) days for the Family Assistance, Social Services, and Rehabilitation Services Programs except that Food Stamp Appeals will be processed within sixty (60) days. The postponement of the scheduled hearing in Food Stamp Appeals shall not exceed thirty (30) days, and the time limit for processing the appeal shall be extended because of:
 - (a) Illness of the appellant;
 - (b) Delay in obtaining medical evidence; or
 - (c) Because of circumstances beyond the control of the appellant or the Department.
- (2) The time limit applies to the period extending from the date the request is received by the Department until the date the final order is entered.

Authority: TCA §4-5-301. **Administrative History:** Original rule filed January 19, 1977; effective February 18, 1977. Amendment filed December 17, 1982; effective March 16, 1983. Amendment filed January 20, 1984; effective February 19, 1984.

1240-5-8-.02 CONSIDERATION OF THE ENTIRE RECORD. Before the final order is entered the entire record shall be considered by the hearing authority or his/her designated representative. Provided, however, that such hearing authority may rely on accurate summaries of testimony and evidence, prepared by the hearing officer and contained in the hearing report, as provided in 1240-5-7-.01.

Authority: TCA §4-5-314. **Administrative History:** Original rule filed January 19, 1977; effective February 18, 1977. Amendment filed December 17, 1982; effective March 16, 1983. Amendment filed October 9, 1987; effective January 27, 1988.

1240-5-8-.03 THE FINAL ORDER.

- (1) The final authority is the Commissioner of the Department of Human Services or his/her designated representative. The final order shall be binding upon all parties.
- (2) The final order in a contested case shall be in writing and shall be made available to each party.
- (3) The final order must include a statement of the available procedures and time limits for seeking reconsideration and/or judicial review.

(Rule 1240-5-8-.03, continued)

Authority: TCA §4-5-314. **Administrative History:** Original rule filed January 19, 1977; effective February 18, 1977. Amendment filed July 10, 1980; effective August 25, 1980. Amendment filed December 17, 1982; effective March 17, 1983.

1240-5-8-.04 PUBLIC ACCESS TO FINAL ORDERS. The report of the hearing and the final order will remain on file in the local office for any further inspection as may be needed by the parties or their representatives.

Authority: TCA §4-5-218. **Administrative History:** Original rule filed January 19, 1977; effective February 18, 1977. Amendment filed December 17, 1982; effective March 17, 1983.

1240-5-8-.05 REINSTATEMENT OF ASSISTANCE OR SERVICES.

- (1) If the final order is in favor of the appellant and retroactive benefits are in order, authorization will be given for retroactive benefits to be made in specific amounts and for specific months. The retroactive benefits will in no instance be authorized for any month prior to the month of incorrect action.
- (2) Any benefits which are reinstated shall be done so at the benefit level in effect during the time it was determined by the final order that the appellant was eligible.

Authority: TCA §4-5-301. **Administrative History:** Original rule filed January 19, 1977; effective February 18, 1977. Amendment filed December 17, 1982; effective March 16, 1983.

1240-5-8-.06 RECOVERY WHEN THE FINAL ORDER UPHOLDS THE LOCAL OFFICE. When the final order upholds the local office, any benefits due to continuation of assistance or services pending the hearing decision will be subject to recovery according to the procedures of the Department for recovering benefits.

Authority: TCA §4-5-317. **Administrative History:** Original rule filed January 19, 1977; effective February 18, 1977. Amendment filed December 17, 1982; effective March 16, 1983.